

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

JAMES LENOIR,)	No. ED100731
)	
Appellant,)	Appeal from the Circuit Court
)	of St. Francois County
vs.)	
)	Honorable Kenneth W. Pratte
STATE OF MISSOURI,)	
)	
Respondent.)	FILED: November 12, 2014

Appellant James Lenoir (“Lenoir”) appeals from the judgment of the motion court dismissing his Rule 24.035 motion for post-conviction relief as untimely without an evidentiary hearing. Lenoir alleges that the motion court clearly erred in dismissing his Rule 24.035 motion without conducting an evidentiary hearing as to whether his late filings might be excused by circumstances beyond his control.

AFFIRMED.

Division II holds: Because Lenoir failed to meet his burden of proof to show that his motion was timely filed, he waived his right to proceed with his Rule 24.035 motion, and the motion was properly dismissed by the motion court.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: E. Scott Thompson

Attorney for Respondent: Chris Koster and Andrew Hooper

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